



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper 6

MOTOROLA, INC.
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IL01/3RD
SCHAUMBURG IL 60196

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OCT 28 2002
OFFICE OF PETITIONS

In re Application of
Ramassubramanian, et al.
Application No. 09/919,050
Filed: 31 July, 2001
Attorney Docket No.: CR00257M

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: DECISION ON PETITION
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This is a decision on the petition filed via FAX on 10 October, 2002, to accord a filing date of 29 December, 2000, under 37 C.F.R. §1.10¹ to a provisional application. Petitioner alleges was filed at that time as a predicate to the instant application.

The petition is **DISMISSED**.

¹ The regulations at 37 C.F.R. §1.10 provide in pertinent part:
§ 1.10 Filing of papers and fees by "Express Mail."

(e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
- (3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

(f) The Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the USPS on the date in question.

[48 Fed. Reg. 2708, Jan. 20, 1983, added effective Feb. 27, 1983; 48 Fed. Reg. 4285, Jan. 31, 1983, paras. (a) & (c), 49 Fed. Reg. 552, Jan. 4, 1984, effective Apr. 1, 1984; paras. (a)-(c) revised and paras. (d) - (f) added, 61 Fed. Reg. 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (d) & (e) revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

Your request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.10."

There will be no further reconsideration thereafter.

BACKGROUND AND ANALYSIS

The record reflects that:

- Petitioner alleges that a provisional application (predicate to the instant application) was filed via Express Mail (US Postal Service (USPS) Express Mail No. EF263209519US) on 29 December, 2000;
- although it appears that application may have been received by the Office, it does not appear to have been processed;
- thereafter, Petitioner received neither his receipt card alleged to have been filed with provisional application, nor a filing receipt, and Petitioner filed (also via Express Mail) on 31 July, 2001, a petition under 37 C.F.R. §1.182, alleging timely filing of the petition and seeking a filing date of 29 December, 2000, which petition was dismissed as inappropriate;
- it is now noted is that a statement by Karen Kass (Ms. Kass), which Petitioner indicated was attached (to satisfy the showing required) was in fact not attached or otherwise included with the filing;
- a telephone message was left with Petitioner's office (on Sunday, October, 27, 2002) requesting a copy of the statement to be transmitted via FAX to the Office.

Therefore, at this writing the showing required under 37 C.F.R. §1.10 is not yet complete.

The renewed petition, if any, must be accompanied corroborating evidence sufficient to satisfy Petitioner's burden of proof (i.e., at least the statement of Ms. Kass).

The instant petition must be and hereby is dismissed.

Any future correspondence with regard to this matter under 37 C.F.R. §1.10 should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
ATTN: Office of Petitions

By hand: Crystal Plaza 4
Room 3-C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries specific to this decision should be directed to the undersigned at (703) 305-9199.



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